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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)  
81230.518US1

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on March 14, 2007

Signature

Typed or printed

name Ranni Matar

Application Number

10/802,518

Filed

03/16/2004

First Named Inventor

Craig M. Janik

Art Unit

2618

Examiner

Dean, Raymond S.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

X

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

X

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 35,906

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

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March 14, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.

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## REQUEST FOR PRE-APPEAL REVIEW

In the application claims 1, 2, 4, 6-10, and 31 remain pending. Claims 3, 5, 11-30, 32, and 33 have been canceled without prejudice.

The claimed invention is generally directed to a server computer driven content *synchronization* system. As is well understood by those skilled in the art and as is described in paras. 0003-0005 of the subject application, a content *synchronization* system is a system that functions *to transfer* content, i.e., audio and/or video files such as MP3 files, MPEG files, etc., from a first device to second device. For example, a content *synchronization* process is utilized *to transfer audio and/or video files* that have been newly added to a first device to a second device to thereby ensure that the first device and the second device both have the same content.

As further set forth within the invention claimed, the server computer driven content synchronization system also provides for the reservation of power by the portable device to which content is to be automatically transferred from the server computer. To this end, the claimed invention provides for the server computer initiating the automatic content synchronization process with the portable device being maintained in a low power state until such time as the portable device is within communication range of the server computer and the server computer signals the portable device that it is intended to communicate content to the portable device.

Considering now Walsh, it is first respectfully submitted that Walsh is not directed to a system for *automatic* content *synchronization* as is claimed. Rather, Walsh is directed to a system in which content, i.e., an audio file, is provided from a server computer to a portable device on the command of the portable device and merely for the

purpose of allowing for the immediate playback by the portable device of any content so received from the server. That Walsh in not directed to automatic content synchronization has, in fact, been acknowledged in the rejection of the claims. In this regard, it has been acknowledged within the Office Action that, as concerns the downloading of content from the server computer to the portable device for playback within the system of Walsh, the actual downloading of the content from the server device to the portable device is initiated by a user manually interacting with the portable device. Accordingly, since the system of Walsh requires a user to manually initiate the actual downloading of content to a portable device from the server computer, it will be appreciated that the system of Walsh not only fails to be server computer driven but also fails to provide for an automatic initiation of content synchronization as is claimed.

While the Office Action has acknowledged that Walsh discloses a system in which the portable device is manually activated to initiate the actual downloading of content from the server, the Office Action has nevertheless taken the position that, based upon the Bluetooth specification and particularly the described transition of a Bluetooth device to an activation mode and synchronization with a master to form a piconet, Walsh somehow discloses the automatic initiation of content synchronization. In response it is respectfully submitted that the Bluetooth specification reveals that synchronization “to form a piconet” *has no relevance to the initiation of content synchronization*, i.e., the initiation of the transference of audio and/or video files between device, but is instead directed to nothing more than signal clocking and spread spectrum frequency hopping coordination to thereby establish a communication channel:

During typical operation a physical radio channel is shared by a group of devices which are synchronized to a common clock and frequency hopping

pattern. One device provides the synchronization reference and is known as the master. All other devices are known as slaves. A group of devices synchronized in this fashion forms a piconet.

(Bluetooth Specification 2.0, Architecture and Terminology Overview, Vol. 1, Part A, Page 13, Section 1.1 “Overview of Operation.” Bluetooth SIG, Inc. 4 November 2004).

Accordingly, it is respectfully submitted that, since in Walsh the forming of a *clock synchronized* piconet, i.e., the forming of a synchronized communication channel by which content may be transferred, has no relevance to the initiation of content synchronization, i.e., the initiation of the transference of audio and/or video file from a server to a mobile device via a synchronized communication channel, and since in Walsh the portable device is acknowledged to be responsible for initiating the downloading of content from the server for playback via a formed piconet as opposed to a server initiating content synchronization as is claimed, it is respectfully submitted that the combination of Walsh and Lappetelainen cannot be said to present a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

Still further, while the Office Action makes reference to the Bluetooth “synchronous connection oriented” (SCO) logical transport and infers from this that members of a piconet would thus necessarily include “synchronization budget managers,” it is respectfully submitted that this conclusion similarly fails to distinguish between the term “synchronization” as used in the data *transmission* art versus the term “synchronization” as used in the data *management* art which is the art that is relevant to that which is claimed. In this regard, referring again to the Bluetooth specification, it is described that synchronous connection oriented (SCO) logical transports “...carry 64 kb/s of information synchronized with the piconet clock. Typically this information is an encoded voice stream.” (Bluetooth Specification 2.0, Architecture and Terminology

Overview, Volume 1, Part A, Page 45, Section 3.5.5 "Synchronous Connection Oriented". Bluetooth SIG, Inc. 4 November 2004.)<sup>1</sup> Thus, it will be appreciated that the SCO reference within the Bluetooth specification is concerned with nothing more than synchronization of data clocking and not with content synchronization let alone budgeting for content synchronization as is claimed. For at least this further reason it is respectfully submitted that the combination of Walsh and Lappetelainen cannot be said to present a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

In sum, it is respectfully submitted that the mere disclosure within Walsh of the use of Bluetooth cannot be said to disclose, teach, or suggest content synchronization in the manner that is expressly claimed. While Walsh may describe the use of Bluetooth as an exemplary communication protocol for his jukebox controller and the Bluetooth specification may refer to "synchronization," it is respectfully submitted that it cannot be ignored that clock synchronization and content synchronization are entirely different concepts in the art and that one of ordinary skill in the art would not, under ANY interpretation, read creating a *clock synchronized piconet for the purpose of transferring data* on the claimed automatic initiation of data transference via such a communication channel, i.e., content synchronization, as was asserted in the Advisory Action. Furthermore, it is respectfully noted that, while higher levels of the Bluetooth specification do introduce the concept of content synchronization, this is not required to

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<sup>1</sup> "3.5.5 Synchronous connection-oriented (SCO)- The synchronous connection-oriented (SCO) logical transport is a symmetric, point-to-point channel between the master and a specific slave. The SCO logical transport reserves slots on the physical channel and can therefore be considered as a circuit-switched connection between the master and the slave.

SCO logical transports carry 64 kb/s of information synchronized with the piconet clock. Typically this information is an encoded voice stream. Three different SCO configurations exist, offering a balance between robustness, delay and bandwidth consumption."

be part of the discovery and piconet formation process and is, in fact, always initiated by the client device and not by a server computer as is claimed.<sup>2</sup>

Considering now Lappetelainen, it is respectfully submitted that Lappetelainen does not “teach a Bluetooth system” as cited to Col. 2, lines 21-25. Rather, cited to Col. 2, lines 21-25 merely refers to devices which might interfere with an RF transponder. Yet further, it is respectfully submitted that, when the objectives of Lappetelainen are considered, it will be appreciated that Lappetelainen clearly teaches against using the Bluetooth activation mode and synchronization with a master to form a piconet that is relied upon in the first instance as a reason for rejecting the claims. Specifically, Lappetelainen alludes to the fact that the protocol overhead and ensuing power consumption involved in establishing a clock synchronized piconet each time a Bluetooth system device wakes works directly against the stated desire of Lappetelainen, e.g., to save battery power. (See Col. 1, lines 36+). Accordingly, for the still further reason that the teachings of Lappetelainen are in conflict with the features of the system of Walsh relied upon in the rejection of the claims in the first instance, i.e., Lappetelainen suggests that establishing a clock synchronized piconet in the manner relied upon in the rejection of the claims is undesirable, it is respectfully submitted that the combination of Walsh and Lappetelainen cannot be said to present a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 must be withdrawn.

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<sup>2</sup> "4.4 AUTOMATIC SYNCHRONIZATION FEATURE: In this feature, the IrMC Client can start the synchronization when the IrMC Server enters the RF proximity of the IrMC Client. Basically, this means that, on the Baseband level, the IrMC Client pages the IrMC Server at intervals and, when it finds that the IrMC Server is in the range, the IrMC Client can begin synchronization." (Bluetooth Profile Specifications, Part K13, Synchronization Profile, Paragraph 4.4. Bluetooth SIG Inc, 22 February 2001)